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May 19, 2023

BY ECF

Honorable Ronnie Abrams
United States District Judge
United States District Court
Southern District of New York
40 Foley Square, Room 2203
New York, New York 10007

Re: Perry Lopez v. New York City Department of Education, et al.
No. 17-CV-9205 (RA) (BCM)

Dear Judge Abrams:

I am an Assistant Corporation Counsel in the Office of the Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, attorney for Defendants New York City Department of Education ("DOE"), Jennifer Ade, Principal of P.S. 46, and Nitza Bellamy, Assistant Principal of P.S. 46 in this matter.¹ I write to request that Your Honor stay and extend the deadline of June 4, 2023 for Defendants to comply with the May 4, 2023 Order of the Magistrate Judge Moses ("the Order") to make sanctions payments pending the Court's decision concerning Defendants' FRCP 72(A) Objections, which Defendants filed on May 18, 2023. See ECF Dkt. Nos. 88-89.

On April 27, 2023, the parties attended a settlement conference with Magistrate Judge Moses. On May 4, 2023, Judge Moses issued an order sanctioning the Law Department and the DOE in connection with their participation in the settlement conference. See ECF Dkt. No. 85. Judge Moses' sanctions' order is pursuant to Fed. R. Civ. P. 16(f)(1)(B) and (C) and alleges that Defendants' failed to send an attorney with full authority to settle the case and violated her Scheduling Order. See ECF Dkt. No. 85 at 1-4. In the Order, Magistrate Judge Moses imposed sanctions against Defendant Department of Education ("DOE") and defense counsel, the New York City Law Department, in the amount of \$1,000 to be paid to the Clerk of Court and \$100 to be paid directly to Plaintiff, to be paid by June 4, 2023. See ECF Dkt. No. 85 at 10. Defendants

¹ Individually named defendants Jennifer Ade and Nitza Bellamy were dismissed from this case. See ECF Dkt. No. 73, at 3:9-10.

filed their FRCP 72(A) objections on May 18, 2023, see ECF Dkt. Nos. 88-89, and they now seek a stay of the May 4, 2023 Order until the resolution of these objections.

Defendants have a good faith basis to object to the Order. Defendants respectfully submit that the Order is clearly erroneous because defense counsel was prepared to participate in the settlement conference and participated in good faith, did have authority to settle the case and were able to obtain additional authority if circumstances warranted it. In addition, the cases relied upon by the Court are inapposite and do not support a finding that sanctions are warranted under the facts of this case. Further, the sanctions are unjustified under the totality of the circumstances, without support in applicable case law, disproportionate, and unduly severe. Defendants' complied with the Court's order, Law Department policy and the provisions of N.Y. City Charter § 93(i) and § 394(c) in considering whether seeking an increase in settlement authority was justified during the conference and in concluding that it was not.

Accordingly, the Defendants respectfully request that the Court stay compliance with the May 4, 2023 Order of Magistrate Judge Moses pending resolution of Defendants' objections to that Order.

Defendants thank the Court for its consideration of this matter.

Respectfully submitted,

/s/ Traci Krasne

Traci Krasne

Assistant Corporation Counsel

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Application granted. The order of payment shall be stayed until the City's objections are resolved.

SO ORDERED.



Hon. Ronnie Abrams

May 24, 2023